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REMARKS

I. Introduction

In response to the Office Action dated September 30, 2005, claims 42 and 87 have been amended. Claims 1-5, 8-10, 12, 14-50, 53-55, 57, 59-92, 94, and 95 are in the application. Re-examination and re-consideration of the application, as amended, is requested.

II. Claim Amendments

Applicant's attorney has made amendments to the claims as indicated above. These amendments were made solely for the purpose of clarifying the language of the claims, and were not required for purposes of patentability.

III. The Cited References and the Subject Invention

A. The Boyer Reference

U.S. Patent No. 6,268,849, issued July 31, 2001 to Boyer et al. discloses an Internet television program guide system with embedded real-time data. The Internet television program guide system allows a user at a multimedia system to access television program listings containing embedded real-time data over an Internet communications link. The television program listing may be for a sporting event that is currently being broadcast and the real-time data may be the current score of the event, the current weather where the event is taking place, or any other suitable real-time information on the event. The real-time data may be presented in the form of video stills, video clips, textual information, audio clips, or suitable combinations of such media. The user can perform database searches on the program guide listings to search for a desired program. If desired, the user can obtain additional information on a selected program by accessing an associated web page.

B. The Legall Reference

U.S. Patent No. 6,005,565, issued December 21, 1999 to Legall et al. discloses an integrated search of electronic program guide, internet and other information resources. A power search tool

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enables a user to search an electronic program guide and other information resources with one search. A search tool window is displayed that enables a user to select filter elements used to search. Alternately, in one embodiment, the filter elements are automatically selected from predetermined program elements, such as title or subject, of a selected program in the electronic program guide. The search tool performs a search of the electronic program guide and information resource and modifies the display of the electronic program guide to identify those programs that are filtered from the search. Similarly, a window displays information indicating those portions of the information resource that have been filtered during the search. Preferably the information resource is the world wide web and the URLs of the web sites that include information relative to the filter elements are displayed. The user can then view the electronic program guide and select broadcasts of programs to display as well as proceed to the web sites indicated simply by selection of the corresponding elements on the display.

C. The Alexander Reference

U.S. Patent No. 6,177,931, issued January 23, 2001 to Alexander et al. discloses systems and methods for displaying and recording control interface with television programs, video, advertising information and program scheduling information. The system is said to be an improvement over previous Electronic Programming Guides ("EPG") in that it provides, among other things: Improved viewer interaction capabilities with the EPG; improved viewer control of video recording of future-scheduled programming; improved features to the EPG display and navigation; parental control of the EPG display; improved television program information access by the viewer; improved opportunities for the commercial advertiser to reach the viewer; improved product information access by the viewer; creation of a viewer's profile; utilization of viewer profile information to customize various aspects of the EPG; and utilization of viewer profile information to provide customized presentation of advertising to the viewer.

D. The Sampsell Reference

U.S. Patent No. 6,219,839, issued April 17, 2001 to Sampsell discloses an On-screen electronic resources guide. The system includes an audio/visual display device; plural peripheral

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devices, each having an active mode and an inactive mode; an interface located between said audio/visual device and said peripheral devices; and an ERG generator for providing an ERG display for displaying programming available to said audio/visual display device from said peripheral devices when such devices are in their active mode. A method for providing an on-screen electronic resource guide (ERG) in an audio/visual display device having plural peripheral devices connected thereto over an interface, wherein each peripheral device has an active mode and an inactive mode includes generating an ERG display for displaying programming available to the audio/visual display device from said peripheral devices when such devices are in their active mode, and controlling a peripheral device from the ERG display.

IV. Office Action Prior Art Rejections

In paragraph (2), the Office Action rejected claims 1, 2, 12, 14-16, 23, 24, 27-43, 46, 47, 57, 59-61, 68, 69, 71-88, 91, 92, 94, and 95 under 35 U.S.C. §103(a) as unpatentable over Boyer et al. (Boyer), U.S. Patent No. 6,268,849, in view of the Legall et al. (Legall), U.S. Patent No. 6,005,565. Applicant respectfully traverses these rejections.

With Respect to Claims 1, 2, 12, 14-16, 23, 24, 27-43, 46, 47, 57, 59-61, 68, 69, 71-88: Claim 1 recites:

*A method of providing media program information, comprising the steps of:
accepting a command to select an active channel from a plurality of selectable channels;
accepting a command to provide a menu guide selected from a plurality of menu guides together defining a media program information space segmented by daypart, wherein the menu guide is associated with a first daypart; and
providing the menu guide, the menu guide comprising a menu guide content portion presenting media program information regarding media programs consisting of all of the media programs scheduled to be available during the first daypart on a channel consisting of the active channel.*

The Office Action acknowledges that Boyer fails to disclose "displaying all of the media programs scheduled to be available on the channel during the first day part", but asserts that Legall (in FIGs. 3a and 3b) disclose these features by disclosing a web browser based EPG that the user may use a number of filter features, thus enabling a user to further refine their search.

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The Applicant respectfully traverses for several reasons:

First, even if Legall were to disclose the a system that is capable of performing a search that would present a result analogous to that of the Applicant's invention, there is absolutely no suggestion or teaching that the user use it to do so. To suggest that the Applicant's claims are unpatentable on this basis would forego granting patentable status to any invention that used the same parameters shown in Legall, no matter how novel and unobvious the combination. Clearly, this is not the law.

Second, the proffered motivation for combining Boyer and Legall (in order to display programming within a certain time of day, for the advantage of refining a user search in order to make it easier to find programs of interest), appears to be hindsight reconstruction using the Applicant's own teaching against him. This is also not permitted under the law. In truth, the Legall reference, like the Boyer reference, with their multifaceted and complex displays, both teach away from the Applicant's invention.

Third, Legall does not disclose a system that is capable of performing a search that would present a result analogous to that of the Applicant's invention. Claim 1 recites that the menu guide content portion presents media program information consisting of all of the media programs scheduled to be available during the first daypart on a channel consisting of the active channel, and Legall's power search function does not teach the ability to limit the search result by channel.

In light of the foregoing, the Applicant respectfully traverses the rejection of claim 1.

Claim 46 recites features analogous to those of claim 1 and is patentable for the same reasons.

With Respect to Dependent Claims 2, 12, 14-16, 23, 24, 27-43, 47, 57, 59-61, 68, 69, 71-88:
Dependent claims 2, 12, 14-16, 23-24, 27-33, and 35-43 depend on claim 1 and dependent claims 47, 57, 59-61, 68-69, 71-77, 80-85, and 88 depend on claim 46 and are patentable for the same reasons. These claims also include other features rendering them patentable over the Boyer reference.

In responding to the First Office Action, the Applicant disagreed with the notion that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the references as described in the Office Action. In the context of media program guides, it is tempting to argue that it is a simple and obvious matter to add features that are present in one

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program guide to another. Ergonomic factors and limited space on displays with limited resolution demand judicious choice of what information be provided in what context and how that information is presented. Boyer, for example, is directed to an Internet television programming guide, which typically allows navigation by a mouse-driven cursor and much higher resolution than does a typical television set. Factors that drive the ergonomics of this design are substantially different than those that would drive program guides that are displayed by a television. This objection applied to ALL of the claims rejected under this rationale, not simply claims 33 and 34, which the Office Action addresses in its response. However, with respect to the rejection of claims 33 and 34, the Second Office Action explains that it relied on Boyer for the teaching of an icon and took Official Notice that displaying an icon within a web browser which indicates that a navigation function is executed (was well known in the art).

The Applicants acknowledge that it is well known to change an icon in a web browser when a hyperlink is selected, but that is all. As the Applicants have noted, navigating a web browser is quite a different matter than navigating a menu displayed on a television.

It is also noted that claim 33 recites features that are not disclosed by the references, even if it were appropriate to combine them. Even if Boyer and Legall together disclose an icon (e.g. IE icon in the top right corner of Internet Explorer) that is not a "navigation icon" that "indicates when the *menu content portion* of the menu guide is *activated* for navigation".

With Respect to Claims 91, 92, 94, and 95: Claim 91 recites:

*A method of presenting advertising in a menu guide, comprising the steps of:
accepting advertising media content and a media program from a media content provider; and
providing the media program information to a subscriber on an active channel; and
providing a menu guide selected from a plurality of menu guides together defining a media program information space segmented by daypart, wherein the menu guide includes a menu guide content portion presenting media program information for media programs consisting of all of the media programs scheduled to be available on the active channel during a daypart selected from a current daypart and a selected daypart.*

and claim 92 recites:

A menu guide for presenting media program information, comprising:

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a menu guide content portion presenting media program information regarding media programs consisting of all of the media programs scheduled to be available during a first daypart on a selected channel; and

wherein the menu guide is selected from a plurality of menu guides together defining a media program information space segmented by a daypart.

According to the Office Action, Boyer discloses all of the above features except “displaying solely all of the media programs scheduled to be available on the channel during the first daypart.” The Applicants respectfully disagree for the reasons described above with respect to claim 1.

Claim 94 recites:

A method of presenting media program information describing at least one media program, comprising the steps of:

accepting a command to access the media program information at a time of day;

determining a first daypart selected from the group comprising a current daypart defined from the time of day and a selected daypart; and

providing a menu guide having menu guide content including media program information, the media program information describing media programs consisting of all of the media programs scheduled to be available during the first daypart on a selected channel.

Claim 94 recites features analogous to those of claims 1, 46, 91, and 92 and is patentable for the same reasons. Claim 94 is also patentable for additional reasons as well.. Legall teaches “power” searching for media programs by start time, but there is no attempt whatsoever to relate that search with anything analogous to a “current daypart determined from the time of day”. At best, even when combined, at best, Boyer would teach presenting it’s display (which the Office Action admits does not present information by “daypart”) and offering the user the optional of searching capability which is also unrelated to the *current* daypart. There is no teaching whatsoever to “determine a first daypart selected from the group comprising a *current daypart defined from the time of day and a selected daypart.*”

Claim 95 recites features analogous to those of claim 94 and is patentable for the same reasons.

In paragraph (3), the Office Action rejected claims 3-5, 8-10, 17-22, 25, 48-50, 53-55, 62-67, and 70 under 35 U.S.C. §103(a) as unpatentable over Boyer in view of Legall, and further in view of Alexander et al. (Alexander), U.S. Patent No. 6,177,931. Applicant respectfully traverses these rejections.

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With Respect to Claims 3-5, 8-10, 17-22, 25, 48-50, 53-55, 62-67, and 70:

Claim 3 recites that “the menu guide further comprises a channel portion indicating *the* active channel”. The Office Action argues that Alexander discloses a cursor that can be used to highlight an “active” channel. The Applicant respectfully disagrees. Anderson illustrates a cursor that can be used to highlight *a channel*, but not an “active channel” within the meaning of claim 1 (e.g. one in which the associated programs available on that channel for a daypart is presented).

With respect to claim 17, the Office Action argues:

“Alexander discloses in figure 1, a PIP window 12 that plays video for the last tuned channel, or the currently highlighted channel (column 3, line 63 - column 4, lines 27) , panel advertisements may be displayed in windows 14 and 16 (column 21, lines 39-54), and a virtual parent ad 52, which is contextually related to the channel displayed above it (column 22, lines 34-47, column 23, lines 12-19), thus providing many opportunities to view and advertisement”

“The Examiner takes official notice that a media provider determining advertising content on an active channel is notoriously well known in the art. For example, during a Super Bowl national advertisements for Pepsi are displayed during a commercial break, thus guaranteeing that a large number of viewers would see an advertisement and enable the ability to charge the advertiser for more money for airtime for a correspondingly larger viewership.”

Sponsored advertising is old in the art of course, but that has little to do with advertising presented in the context of a menu guide. It is one thing to have the media program provider determine the advertising content provided in their own signal, it is quite another to have the media program provider do so in an interface that they do not generate or have control over (e.g. the menu guide). Indeed, providing advertising content in an advertising content portion would be *redundant* as that information is already provided to the viewer via the PIG.

In paragraph (4), the Office Action rejected claims 44, 45, 89, and 90 under 35 U.S.C. §103(a) as unpatentable over Boyer, in view of Legall, and further in view of Sampsell, U.S. Patent No. 6,219,839. Claims 44, 45, 89, and 90 recite the features of the independent claims they depend upon and are patentable on this basis.

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V. Dependent Claims

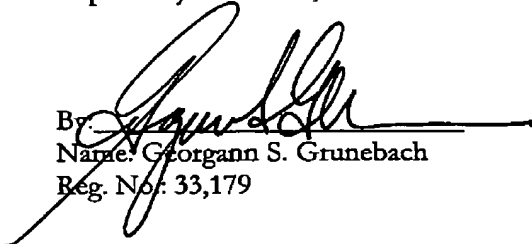
Dependent claims 2-5, 8-10, 12, 14-45, 47-50, 53-55, 57, 59-90, and 95 incorporate the limitations of their related independent claims, and are therefore patentable on this basis. In addition, these claims recite novel elements even more remote from the cited references. Accordingly, the Applicants respectfully request that these claims be allowed as well.

VI. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicant's undersigned attorney.

Respectfully submitted,

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